IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No. 410 of 2004
Date of Decision: 15 .03.2007

Hira Nand Khanduja and others

.....Appellant No.1
H.N.Khanduja
in person

versus

State of Haryana and another

.....Respondents through
Mr. Randhir Singh, Addl. A.G. Haryana

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA J.

The appellants, impugn the judgment of the learned Single Judge dated 13.07.2004, whereby their writ petition was dismissed. Appellants herein, namely, legal heirs of Smt. Neelam Khanduja deceased, filed a writ petition, praying for the issuance of a direction to the respondents to grant benefits under the Haryana Government Employees Group Insurance Scheme, 1985 (hereinafter referred to as 'Group Insurance Scheme').

Smt. Neelam Khanduja was working as the Headmistress in Government Primary School, Kishanpura, Block Thanesar-I, District Kurukshetra. On 20.08.1985, the Government notified a Group Insurance

scheme for their employees. The employees in service were required to subscribe to the scheme. They were provided an opportunity to exercise an option to be governed by the scheme, upto 30.09.1985. The scheme further provided that the employees who failed to exercise their option would be deemed to have become members of the scheme from the date the scheme comes into force. Smt. Neelam Khanduja did not exercise her option and it is, therefore, alleged that she became a member of the scheme. Consequently Rs. 20/- was deducted from her salary for the month of April, 1986. It is contended that once a sum of Rs.20/- was deducted from her salary, Smt. Neelam Khanduja became a member of the scheme and therefore, as she expired on 27.8.2006, the respondents were bound to pay a sum of Rs.20,000/- in terms of the scheme.

The respondents, namely, the State of Haryana in their counter affidavit, filed to the writ petition, admitted that Smt. Neelam Khaundja did not exercise that option and therefore Rs.20/- was deducted from her salary. It was however, pleaded that in May,1986, Smt.Neelam Khanduja alongwith some other teachers submitted an application requesting that in future no deduction be effected from their salaries, towards the Group Insurance Scheme. Consequently, from May, 1986, no further deductions were effected from her salary, and therefore, the appellants, who are her legal heirs, are not entitled to any benefit under Group Insurance Scheme.

After considering the matter in detail, the learned Single Judge dismissed the writ petition and recorded a finding that as Smt. Neelam Khanduja had voluntarily opted out of the Group Insurance Scheme, the appellants could not be paid the sum of Rs.20,000/- available to legal heirs, of a member of the scheme.

Upon a contention being raised by learned counsel for the appellants that a note had been pasted in the service book of Smt. Neelam Khanduja, that she had become a member of the Group Insurance Scheme, the learned Single Judge summoned the service book. Although, a note was found pasted in the service book, the learned Single Judge held that as the note did not contain any endorsement, corresponding entry to that effect in the service book, the said note could not be relied upon to allow the claim raised in the writ petition.

We have learned counsel for the parties and perused the paper book.

It is not denied, by either party that Smt. Neelam Khanduja initially failed to furnish any option as regards her membership of the scheme. It is also not denied that for the month of April, 1986, a sum of Rs.20/- was deducted from her salary. It is also not in dispute that Smt. Neelam Khanduja and other teachers made a request that no further deductions be effected from their salaries towards the Group Insurance Scheme. This fact was specifically pleaded by the respondents in their counter affidavit filed to the writ petition and was not denied in the rejoinder filed thereto. Thus, the finding of the learned Single Judge that Smt. Neelam Khanduja opted out of the scheme cannot be faulted. It would also be necessary to mention here that though the option had to be exercised upto 30.09.1985, the last date for exercising the option was subsequently extended upto 30.06.1986. Smt. Neelam Khanduja's request that after the deduction made in April, 1986, no further amount be deducted from her salary towards G.I.S. Scheme, as it , expressed a clear desire to opt out the scheme, was adhered to by the respondents.

Another contention urged by appellant No.1 who has appeared in person is that the learned Single Judge committed an error of fact by holding that the note pasted in the service of Smt. Neelam Khanduja, was pasted on the papers pertaining to the year 1981 is incorrect. We have perused a copy of the service book, that has been appended with the appeal. There appears to be an error with respect to the aforementioned fact. The note appears on the leaf pertaining to the year 1986. However, this error would make no difference to the outcome of the present appeal. The aforementioned note, as held by learned Single Judge, did not contain any endorsement, or any corresponding entry in the service book. It could therefore, not constitute a basis for concluding that Smt. Neelam Khanduja had opted to become a member of Group Insurance Scheme. The note or the fact that one month's salary was deducted would not, in view of the facts noticed hereinabove, confer any right upon the appellants to claim any amount pursuant to the Group Insurance Scheme. We are satisfied that the impugned judgment does not suffer from any error.

Consequently, the present appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

(VIJENDER JAIN)
CHIEF JUSTICE

15.03.2007
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